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105TH CONGRESS  
1ST SESSION

# H. R. 414

To authorize the use of the Medicare trust funds to reimburse the Department of Defense for certain health care services provided to Medicare-eligible covered military beneficiaries.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. HEFLEY (for himself, Mr. WATTS of Oklahoma, Mr. NORWOOD, Mr. TAYLOR of Mississippi, Mr. FILNER, Mr. ENSIGN, Mr. BONILLA, Mr. BARTLETT of Maryland, Mr. ABERCROMBIE, Mr. GONZALEZ, Mr. RAMSTAD, Mr. CONDIT, Mr. GOODLATTE, Mr. LEWIS of Kentucky, Mr. BALLENGER, Mr. BEREUTER, Mr. CUNNINGHAM, Mr. CLEMENT, Mr. HERGER, Mr. STEARNS, Mr. DAN SCHAEFER of Colorado, and Mr. HOYER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize the use of the Medicare trust funds to reimburse the Department of Defense for certain health care services provided to Medicare-eligible covered military beneficiaries.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Uniformed Services Medicare Subvention Program Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Establishment of subvention program.

Sec. 4. Determination of reimbursement amounts.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act:

8 (1) **MEDICARE-ELIGIBLE COVERED MILITARY**  
9 **BENEFICIARY.**—The term “Medicare-eligible covered  
10 military beneficiary” means a beneficiary under  
11 chapter 55 of title 10, United States Code, who—

12 (A) is entitled to hospital insurance bene-  
13 fits under part A of title XVIII of the Social  
14 Security Act (42 U.S.C. 1395c et seq.); and

15 (B) is enrolled in the supplementary medi-  
16 cal insurance program under part B of such  
17 title (42 U.S.C. 1395j et seq.).

18 (2) **TRICARE PROGRAM.**—The term  
19 “TRICARE program” means the managed health  
20 care program that is established by the Secretary of  
21 Defense under the authority of chapter 55 of title  
22 10, United States Code, principally section 1097 of  
23 such title, and includes the competitive selection of

1 contractors to financially underwrite the delivery of  
2 health care services under the Civilian Health and  
3 Medical Program of the Uniformed Services.

4 (3) SUBVENTION PROGRAM.—The term “sub-  
5 vention program” means the program established  
6 under section 3 to reimburse the Department of De-  
7 fense, from the Medicare program under title XVIII  
8 of the Social Security Act (42 U.S.C. 1395 et seq.),  
9 for health care services provided to Medicare-eligible  
10 covered military beneficiaries through the managed  
11 care option of the TRICARE program.

12 (4) SECRETARIES.—The term “Secretaries”  
13 means the Secretary of Defense and the Secretary of  
14 Health and Human Services acting jointly.

15 **SEC. 3. ESTABLISHMENT OF SUBVENTION PROGRAM.**

16 (a) ESTABLISHMENT REQUIRED.—The Secretary of  
17 Defense and the Secretary of Health and Human Services  
18 shall jointly establish a program to provide the Depart-  
19 ment of Defense with reimbursement, beginning October  
20 1, 1997, in accordance with section 4, from the Medicare  
21 program under title XVIII of the Social Security Act (42  
22 U.S.C. 1395 et seq.) for health care services provided to  
23 Medicare-eligible covered military beneficiaries who agree  
24 to receive the health care services through the managed  
25 care option of the TRICARE program.



1       (b) VOLUNTARY ENROLLMENT.—For purposes of the  
2 subvention program, enrollment of Medicare-eligible cov-  
3 ered military beneficiaries in the managed care option of  
4 the TRICARE program shall be voluntary, except that the  
5 total number of Medicare-eligible covered military bene-  
6 ficiaries so enrolled shall be subject to the capacity and  
7 funding limitations specified in section 4.

8       (c) EFFECT OF ENROLLMENT.—In the case of a  
9 Medicare-eligible covered military beneficiary who enrolls  
10 in the managed care option of the TRICARE program,  
11 payments may not be made under title XVIII of the Social  
12 Security Act (42 U.S.C. 1395 et seq.) other than under  
13 the subvention program for health care services provided  
14 through the managed care option, except that the Sec-  
15 retaries may provide exceptions for emergencies or other  
16 situations as the Secretaries consider appropriate.

17       (d) TRICARE PROGRAM ENROLLMENT FEE WAIV-  
18 ER.—The Secretary of Defense shall waive the enrollment  
19 fee applicable to any Medicare-eligible covered military  
20 beneficiary enrolled in the managed care option of the  
21 TRICARE program for whom reimbursement may be  
22 made under section 4.

23       (e) MODIFICATION OF TRICARE CONTRACTS.—In  
24 carrying out the subvention program, the Secretary of De-  
25 fense may amend existing TRICARE program contracts

1 as may be necessary to incorporate provisions specifically  
2 applicable to Medicare-eligible covered military bene-  
3 ficiaries who enroll in the managed care option of the  
4 TRICARE program.

5 (f) COST SHARING.—The Secretary of Defense may  
6 establish cost sharing requirements for Medicare-eligible  
7 covered military beneficiaries who enroll in the managed  
8 care option of the TRICARE program and for whom reim-  
9 bursement may be made under section 4.

10 (g) EXPANSION OF SUBVENTION PROGRAM.—The  
11 Secretaries may expand the subvention program to incor-  
12 porate health care services provided to Medicare-eligible  
13 covered military beneficiaries under the fee-for-service op-  
14 tions of the TRICARE program if, in the report submitted  
15 under section 713 of the National Defense Authorization  
16 Act for Fiscal Year 1997 (Public Law 104–106; 110 Stat.  
17 2591), the Secretaries determined that such expansion is  
18 feasible and advisable.

19 **SEC. 4. DETERMINATION OF REIMBURSEMENT AMOUNTS.**

20 (a) REIMBURSEMENT OF DEPARTMENT OF DE-  
21 FENSE.—

22 (1) BASIS OF PAYMENTS.—Beginning October  
23 1, 1997, monthly payments to the Department of  
24 Defense under the subvention program shall be  
25 made from the Medicare program under title XVIII

1 of the Social Security Act (42 U.S.C. 1395 et seq.)  
2 on the basis that payments are made under section  
3 1876(a) of the such Act (42 U.S.C. 1395mm(a)).

4 (2) AMOUNT OF PAYMENTS.—The Secretary of  
5 Health and Human Services shall make payments to  
6 the Department of Defense from the Federal Hos-  
7 pital Insurance Trust Fund and the Federal Supple-  
8 mentary Medical Insurance Trust Fund (allocated  
9 by the Secretary of Health and Human Services be-  
10 tween each trust fund based on the relative weight  
11 that each trust fund contributes to the required pay-  
12 ment) at a per capita rate equal to 93 percent of the  
13 applicable adjusted average per capita cost for each  
14 Medicare-eligible covered military beneficiary en-  
15 rolled in the managed care option of the TRICARE  
16 program in excess of the number of such bene-  
17 ficiaries calculated under subsection (b) for the De-  
18 partment of Defense maintenance of health care ef-  
19 fort.

20 (b) MAINTENANCE OF DEFENSE HEALTH CARE EF-  
21 FORT.—

1           (1) MAINTENANCE OF EFFORT REQUIRED.—

2       The Secretary of Defense shall maintain the Depart-  
3       ment of Defense health care efforts for Medicare-eli-  
4       gible covered military beneficiaries so as to avoid im-  
5       posing on the Medicare program those costs that the  
6       Department of Defense would be expected to incur  
7       to provide health care services to Medicare-eligible  
8       covered military beneficiaries in the absence of the  
9       subvention program.

10          (2) ESTIMATE OF PRIOR EFFORT.—For the

11       first fiscal year of the subvention program, the Sec-  
12       retaries shall estimate the amount expended by the  
13       Department of Defense for fiscal year 1997 for pro-  
14       viding health care items and services (other than  
15       pharmaceuticals provided to outpatients) to Medi-  
16       care-eligible covered military beneficiaries. For sub-  
17       sequent fiscal years, the amount so estimated shall  
18       be adjusted for inflation, for differences between es-  
19       timated and actual amounts expended, and for  
20       changes in the Department of Defense health care  
21       budget that exceed \$100,000,000.

22          (3) TARGET FOR DEFENSE EFFORT.—On the

23       basis of the estimate made under paragraph (2), the  
24       Secretaries shall establish monthly targets of the



1        number of Medicare-eligible covered military bene-  
2        ficiaries for whom reimbursement will not be pro-  
3        vided to the Department of Defense under sub-  
4        section (a).

5        (c) PROTECTION OF MEDICARE PROGRAM AGAINST  
6        INCREASED COSTS.—

7                (1) PURPOSE.—The purpose of this subsection  
8        is to protect the Medicare program against costs in-  
9        curred under subsection (a) in connection with the  
10       provision of health care services to Medicare-eligible  
11       covered military beneficiaries that would not have  
12       been incurred by the medicare program in the ab-  
13       sence of the reimbursement requirement.

14               (2) REVIEW BY COMPTROLLER GENERAL.—Not  
15       later than December 31 of each year, the Comptrol-  
16       ler General shall determine and submit to the Sec-  
17       retaries and Congress a report on the extent, if any,  
18       to which the costs of the Secretary of Defense under  
19       the TRICARE program and the costs of the Sec-  
20       retary of Health and Human Services under the  
21       Medicare program have increased as a result of the  
22       subvention program.

23               (3) ACTIONS TO PREVENT INCREASED COSTS.—  
24       If the Secretaries determine that the trust funds  
25       under title XVIII of the Social Security Act (42



1 U.S.C. 1395 et seq.) still incur excess costs as a re-  
2 sult of the subvention program, the Secretaries shall  
3 take such steps as may be necessary to offset those  
4 excess costs (and prevent future excess costs), in-  
5 cluding suspension or termination of the subvention  
6 program, adjustment of the payment rate under sub-  
7 section (a)(2), or an adjustment of the maintenance  
8 of effort requirements of the Department of Defense  
9 under subsection (b).

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